

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Amendments of Part 90 of the)	PR Docket No. 93-144
Commission's Rules to Facilitate)	RM-8117, RM-8030
Future Development of SMR Systems)	RM-8029
in the 800 MHz Frequency Band)	
)	
Implementation of Sections 3(n) and 322)	GN Docket No. 93-252
of the Communications Act)	
Regulatory Treatment of Mobile Services)	
)	
Implementation of Section 309(j))	PP Docket No. 93-253
of the Communications Act --)	
Competitive Bidding)	

To: The Commission

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COMMENTS OF PUERTO RICO TELEPHONE COMPANY

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COMMENTS OF PUERTO RICO TELEPHONE COMPANY

Puerto Rico Telephone Company ("PRTC"), by its attorneys and pursuant to Section 1.415 of the Commission's Rules,¹ hereby comments on the Commission's Second Further Notice of Proposed Rule Making ("Second NPRM") in the captioned proceeding.² In the Second NPRM the Commission seeks comments on its proposal to eliminate BETRS eligibility on the upper 200 channels of 800 Mhz SMR Spectrum.³

1. 47 C.F.R. § 1.415.

2. FCC 95-501, released December 15, 1995, 10 FCC Rcd ____ (1995).

3. Channels 401-410, 441-450, 481-490, 521-530, and 561-570 are available for BETRS on a co-primary basis with private radio services over the paired frequencies 816-821 MHz and 861-866 MHz. Id. at ¶¶ 287-288.

I. INTRODUCTION

PRTC is a wholly-owned subsidiary of the Puerto Rico Telephone Authority ("PRTA"), a government instrumentality of the Commonwealth of Puerto Rico.⁴ PRTC provides wireline telephone service throughout the urban and rural areas of the island of Puerto Rico.

Over the past several years, PRTC has made tremendous strides toward increasing its overall service penetration rate. PRTC has concentrated recent efforts on reaching unserved rural areas; however, the mountainous and rugged terrain in certain areas of Puerto Rico make the installation of wireline infrastructure prohibitively expensive. Accordingly, PRTC has been required to consider methods of providing service other than traditional wireline service. Basic Exchange Telephone Radio Service ("BETRS") has proven to be a cost-effective alternative. Therefore, the Commission's proposal to eliminate half of the spectrum currently available for BETRS authorizations raises considerable concern for PRTC.

II. BETRS IS ESSENTIAL TO PRTC'S EFFORTS TO INCREASE TELEPHONE SERVICE PENETRATION.

The Commonwealth of Puerto Rico acquired PRTC in 1974 to improve the unacceptable level of telephone service development on the island. Telephone service penetration in Puerto Rico was

4. Law Number 25 of the Commonwealth of Puerto Rico, approved May 6, 1974, established PRTA as a government corporation and provided for the purchase of PRTC by PRTA. P.R. LAWS ANN. tit. 27, § 404.

barely at 25 percent in 1974. In the same year, penetration in the mainland United States was at 90 percent.

Since 1974, PRTC has made great strides in extending telephone service throughout Puerto Rico, and modern facilities are now widely available. Last year alone, PRTC increased penetration by 4 percent, and a similar increase should be achieved this year. Nevertheless, telephone penetration in Puerto Rico remains low by United States standards. United States telephone penetration is now 93.8 percent nationally,⁵ while overall penetration in Puerto Rico is 71 percent and below 50 percent in some areas of the island.

As a government entity, PRTC has a social responsibility to provide local exchange service to all Puerto Rico citizens. However, the mountainous terrain spanning parts of the island makes widespread installation of wireline facilities cost-prohibitive. The cost per local loop to install wireline service for the areas affected by these applications ranges from \$5,000 to \$10,000, and in some cases may exceed \$15,000. In contrast, the national average cost per local loop is \$243.⁶ Radio service, which can be provided to the same areas for less than

5. Federal-State Joint Board Staff, Monitoring Report, CC Docket No. 87-339, Table 1.2 at 27 (May 1995) ("1995 Monitoring Report"). Only three states have penetration rates below 90 percent: Mississippi, 88.6 percent; New Mexico, 88.3 percent; and South Carolina, 89.4 percent. Id.

6. Id., Table 3.7 at 86.

\$2,600 per subscriber, is the clear option for PRTC as part of its ongoing effort to increase telephone service availability.⁷

PRTC's current plans include implementing BETRS technology to reach less accessible regions of the island. With plans to expand service into rural areas with low penetration rates, the BETRS spectrum which would remain after the loss of the 800 MHz frequencies will not be sufficient to provide service to the remaining unserved portion of the population which must be served by wireless facilities.

III. REDUCTION OF THE FREQUENCIES ALLOCATED TO BETRS LEAVES NO SUITABLE ALTERNATIVES.

The Commission approved BETRS to provide service to areas where "the cost of bringing wire or cable to their remote locations is prohibitive." In the Matter of Basic Exchange Telecommunications Radio Service, Report and Order, 3 FCC Rcd 214 (1988), on recon., 4 FCC Rcd 5017 (1989) ("BETRS Order").

Consistent with the Commission's conclusions in that proceeding, PRTC respectfully submits that BETRS remains a necessary element of rural radio service. Without adequate spectrum reserved for the service, however, its merits are rendered a nullity. The Commission did not, or could not, suggest any suitable alternatives, either in the form of available spectrum or alternative technology, to offset the proposed loss of the 800 MHz frequency band. No comparable frequencies appear to be

7. PRTC holds BETRS authorizations in the 454 MHz frequency range and is authorized by waiver to provide BETRS in the 453 MHz range, generally assigned for local government (Part 90) use.

available for BETRS, and wireless services that operate at substantially higher frequencies require a significantly larger and potentially prohibitive investment in infrastructure.

A. Limited spectrum is available for BETRS.

In the Second NPRM, the Commission noted that few BETRS facilities are licensed on the upper 10 MHz of the 800 MHz SMR frequency. Second NPRM at ¶ 288. However, the limited spectrum that has been made available for BETRS since its inception may be in part responsible for the sparse utilization of the service.

Part 22 of the Commission's rules allocates 94 channel pairs for BETRS. 47 C.F.R. §§ 22.725 and 22.757. None of these spectrum blocks are reserved solely for BETRS use. See BETRS Order, 3 FCC Rcd at 216. The Commission's current proposal eliminates 50 of the available channel pairs.

The Commission considered reallocating the 800 MHz frequencies during the recent revision of Part 22, but ultimately declined to do so pursuant to requests for additional spectrum for BETRS from the United States Telephone Association ("USTA") and others. Revision of Part 22, 9 FCC Rcd 6513, 6568-69 (1994). Commenters in the Commission's recent Telephone Subscribership proceeding again requested additional spectrum for the service. In the Matter of Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage of the Public Switched Network, CC Docket No. 95-115.

USTA indicated that the effectiveness of BETRS has been diminished, at least in part, "because the bandwidth assigned to

BETRS was inadequate to provide the service expected and because exchange carriers were only provided co-primary status causing interference and unreliability." Comments at 15 (submitted Sept. 27, 1995). Likewise, Optaphone Systems cited "the small amount of radio spectrum available for fixed rural radio telephony" as "the largest limiting factor in providing service by wireless means." Comments at 2 (submitted Sept. 27, 1995). The National Telephone Cooperative Association attested to the "urgent need" for additional spectrum for BETRS. Comments at 7 (submitted Sept. 27, 1995). See also Comments of U S WEST Communications, Inc. at 12 (submitted Sept. 27, 1995) ("BETRS frequency assignment is often less than ideal").

The current BETRS spectrum allocation is insufficient to meet the requirements for rural service. The Commission's proposal to eliminate a significant portion of the scant BETRS frequencies will make it increasingly difficult for local exchange carriers to reach unserved areas.

B. Similar services available at higher frequency bands require additional infrastructure.

Higher frequency bands are not a suitable replacement for the loss of available frequencies in the 800 MHz block. Wireless facilities operating at substantially higher frequencies require additional transmitter locations and directional capabilities, thus adding to the infrastructure investment. Alternatives to BETRS that require a more extensive and costly investment in infrastructure are not suitable replacements.

IV. PUBLIC POLICY FAVORS A COMMITMENT TO BETRS SPECTRUM AVAILABILITY.

When the Commission approved BETRS in 1988, the service was heralded as a "major step by the Commission in the pursuit of [its] goal of extending basic telephone service to as many Americans as possible." BETRS Report and Order, 3 FCC Rcd at 219. However, the Commission's proposal to eliminate eligibility for BETRS service on the 800 Mhz frequency band ignores the need for increased BETRS availability. The removal of BETRS eligibility to clear the way for additional auction spectrum at the expense of a rural radio service is contrary to public policy.

The Commission is prohibited by statute from assigning service frequencies based on "the expectation of Federal revenues from the use of a system of competitive bidding." 47 U.S.C. § 309(j)(7)(A). SMR frequencies present an opportunity for auction while BETRS do not. Moreover, licenses on the 800 MHz frequencies are likely to be more attractive to a bidder if the spectrum is available solely for SMR service, rather than on a co-primary basis with BETRS. However, this justification for eliminating BETRS eligibility represents the sacrifice of a social obligation, to provide service to rural areas, in favor of financial incentives. The statute forbids assigning spectrum for this purpose.

V. THE COMMISSION MUST NOT REDUCE BETRS SPECTRUM.

The Commission should reaffirm its commitment to rural telephone service by retaining all existing spectrum available

for BETRS. Although the award of BETRS licenses is not likely to raise revenue, BETRS provides a cost-effective option to local exchange carriers for offering telephone service to presently unserved rural areas and will aid the Commission in carrying out its most important statutory mission:

to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges . . .

47 U.S.C. 151.⁸

The Commission should also consider carving out spectrum especially reserved for BETRS. A dedicated BETRS frequency block will encourage carriers to utilize the service as a means for reaching unserved areas. Carriers will in turn create a demand upon equipment providers to improve and develop BETRS equipment.

The Commission should also consider waiving spectrum cap rules for CMRS frequencies acquired for BETRS facilities. In the event that the Commission eliminates BETRS-eligible spectrum or continues its co-primary availability policy, carriers like PRTC may be faced with no alternative but to acquire CMRS licenses to

8. However, purchase of CMRS spectrum at auction to provide BETRS may not be a financially viable alternative. The price for spectrum will be set based upon its use in heavily populated urban areas. If local exchange carriers serving rural areas must pay this price for spectrum to serve very small rural constituencies, wireless local loop may be infeasible. Thus, the auction process will have eliminated a viable technological alternative for serving those who are unserved today. This outcome cannot possibly be consistent with the Commission's universal service mission.

support BETRS facilities.⁹ If PRTC acquires additional CMRS licenses to provide rural service, it may approach the 45 MHz spectrum cap¹⁰ while providing an essential service that is not competitive with PCS, SMR, or cellular.

Moreover, build-out requirements that are attached to a license acquired by auction will skew the service offering to more populated areas. A licensee who must offer the service to a certain percentage of the population within a limited time period can do so most efficiently by installing infrastructure in well-populated areas. Build-out requirements can have the practical effect of hindering service availability in rural markets, thereby inhibiting service in rural areas. Therefore, to encourage the implementation of BETRS to serve rural areas, CMRS spectrum acquired for the purpose of providing rural radio service should not be counted toward the spectrum cap and should not be subject to the build-out requirements.

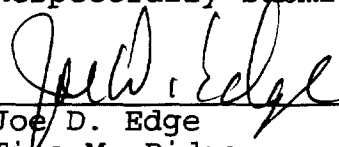
9. The Commission's rules permit licensees to provide BETRS over cellular frequencies. 47 C.F.R. § 22.901(d). PRTC's authorized cellular frequencies are saturated. Therefore, PRTC cannot operate BETRS on its cellular frequencies. See also supra n.8.

10. 47 C.F.R. § 20.6.

VI. CONCLUSION

For these reasons, the Commission should retain BETRS eligibility in the 800 MHz frequency block. Also, the Commission should consider setting aside spectrum designated solely for BETRS. The Commission should also waive the spectrum cap for CMRS licenses acquired solely for the purpose of providing rural radio service.

Respectfully submitted,



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February 15, 1996

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Comments of Puerto Rico Telephone Company has been served by hand delivery on the 15th day of February, 1996 upon:

Mr. William F. Caton
Acting Secretary
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